129 RA-CR-7-2023 in FAO No.2336 of 2017

Pushpa and Another Vs. Mohan and others

Present: Mr. Rajneesh Malhotra, Advocate for the applicant- respondent No.3.

Mr. Kuldeep Sheoran, Advocate for the non-applicant- appellants.

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FAO No.2336 of 2017 was disposed of by this Court on 12.12.2022. Initial compensation amount of ₹20,73,000/- as awarded by the Tribunal was enhanced to ₹36,63,660/- and enhancement was thus allowed to the extent of ₹15,90,660/-. Respondent No.3 – Insurance Company has filed this review application submitting that deceased was above 50 years of age and so future prospects should have been granted at 10% and not 30%, as per **National Insurance Company Limited Vs. Pranay Sethi and others, 2107 Supreme (SC) 1050**, which has been specifically relied by this Court.

Learned counsel for the claimants, has appeared and concedes legal position that since the deceased was above 50 years of age, so 30% future prospects has been wrongly allowed. He, however, has prayed for calculating the future prospects at 15% since deceased was a permanent employee.

In para No.10 of the order dated 12.12.2022, this Court observed that as per **Pranay Sethi's case (supra)**, in case deceased had a permanent job and was between 50 to 60 years of age, then addition should be 15% of the actual salary of the deceased towards future prospects, though said future prospects should be 10% in case he was self employed or on a fixed salary. It was then observed that deceased had a secured job for the last more than 9 years and so as per the dictum in **Pranay Sethi's case (supra),** 30% of the earning was liable to be added towards future prospects.

This Court has certainly made an inadvertent mistake by adding 30% of the earning towards future prospects, though it should have been 15%. Therefore, it is held that after adding 15% towards future prospects, earning of the deceased works out to ₹21,078/- x 12 x 115/100 = 2,90,876.4 per annum.

As per para No.17 of the order dated 12.12.2022, annual pension amount of ₹1,81,296/- is to be added thus making total income of ₹4,72,172.4. Tax liability on the said income works out to be ₹22,217.2 and so after deduction, the earning of the deceased works out to ₹4,49,955.2. After making one third cut, loss of dependency works out to ₹2,99,970/- and by applying the multiplier of 11, compensation works out to ₹32,99,670/-.

As such, para No.25 of the order dated 12.12.2022 of this Court is directed to be changed in the following terms:-

Sr. No.	**Head of Compensation**	**Amount**
1	Loss of dependency	₹32,99,670/-
2	Loss of consortium/parental consortium	₹88,000/- (₹44,000 each)
3	Funeral Expenses	₹16,500/-
4	Loss of Estate	₹16,500/-
	Total:	₹34,20,670/-
	Already allowed by the Tribunal	₹20,73,000/-
	Enhanced Compensation	₹13,47,670/-

Review petition is disposed of, accordingly. Rest of order shall remain as it is.

January 23, 2023 **(DEEPAK GUPTA)**
renu **JUDGE**